

*United States Court of Appeals
for the Second Circuit*



**PETITIONER'S
BRIEF**

DOCKET NOS.

ORIGINAL

**74-2098 and
74-2132**

IN THE
UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

DOCKET NOS. 74-2098 and 74-2132

CONTAINAIR SYSTEMS CORPORATION,

Petitioner,

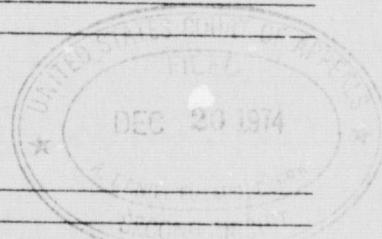
- against -

NATIONAL LABOR RELATIONS BOARD,

Respondent,

ON PETITION TO REVIEW AND SET ASIDE AN ORDER
OF THE NATIONAL LABOR RELATIONS BOARD AND
APPLICATION FOR ENFORCEMENT OF SAME

PETITIONER'S BRIEF



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ISSUE PRESENTED FOR REVIEW

Did the National Labor Relations Board act arbitrarily, capriciously and against the public interest by approving a settlement stipulation that accorded a "non-admission" clause to a known persistent and flagrant violator of employers' and employees' rights under the National Labor Relations Act, as amended?

STATEMENT OF THE CASE

This case involves a petition for review and an application for enforcement of an order of the National Labor Relations Board (the "Board") issued pursuant to a Settlement Stipulation between the General Counsel of the Board and Local 295, affiliated with International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America ("Local 295" or the "Union").

The controversy arises out of a strike Local 295 called between February 22 and mid-March, 1974, to gain recognition rights over employees of Containair Systems Corporation ("Containair" or the "Company"). From the outset the strike was attended by violence, threats and secondary boycott activities.

As a result of these coercive tactics, Containair filed charges against Local 295 on February 25, 1974, alleging violations of Sections 8(b)(1)(A) and 8(b)(4)(B) (Case Nos. 29-CB-1729 and 29-CC-401) (JA2 and 3)*. On March 6, 1974, the Regional Director for Region 29 of the Board issued a consolidated complaint against the Union. The complaint alleged in broad and sweeping terms the same violations that the charges set forth (JA4).

* Numbers in parenthesis prefixed "JA" refer to pages in the Joint Appendix.

One day later, on March 7, 1974, the Regional Director offered Local 295 a Settlement Stipulation with a "non-admission" clause (JA1). The Union readily accepted the Stipulation on March 12, 1974. Containair vigorously protested but a Board panel consisting of Members Fanning, Kennedy and Pennelo issued an order approving the Stipulation on July 16, 1974 (JA15-39).

On August 13, 1974, Containair filed the petition for review involved herein (Case No. 74-2098). On August 23, 1974, the Board filed an application for enforcement of the order. On August 28, the Court granted that application and entered judgment in Case No. 74-2132. Thereafter, on October 4, 1974, the Board moved to vacate the judgment and to consolidate the two cases, which the Court granted on October 21, 1974.

STATEMENT OF THE FACTS

Containair Systems Corporation is a small company located in Springfield Gardens, New York, which manufactures, sells and distributes collapsible pilfer-proof containairs and related products for use by airlines, freight forwarders and trucking and independent companies to ship cargo and which packs cargo for transport by air (JA35).

A. The Violent Strike and Secondary Boycott

On the morning of February 22, 1974, Local 295 called a strike of Containair's employees and set up picket lines outside Containair's premises in an effort to force the Company to recognize and bargain with it without a Labor Board election. Some employees participated in the strike out of fear of bodily harm from the Union; others, even though threatened with personal injury, refused to join the strike and Containair continued to operate its business (JA9).

Right from the start, the strike teemed with deliberate acts of property damage against Containair and threats to the bodies and lives of Containair's employees and of employees of customers of Containair, such as Emery Air Freight. These acts and threats were committed by officials of Local 295 and by picketing employees of Containair acting under the direction and control of the Union. Part of this reign of terror against Containair included the crudest and most effective form of secondary boycott. The secondary boycott, threats and acts of property damage continued on an almost daily basis from February 22 until mid-March, with pickets stopping pick-up and delivery of Containair by physically blocking ingress to the Company's premises and by orally warning drivers not to cross the picket line, and by attempting to block egress of Containair trucks (JA9-11, 19-20).

B. The Unfair Labor Practice Charges and Consolidated Complaint

As a result of these lawless activities, Containair filed two unfair labor practice charges against Local 295 on February 25, 1974. One charge alleged that Local 295 or its agents violated Section 8(b)(1)(A) of the Act by "restraining and coercing employees in the exercise of the rights guaranteed in Section 7 of the National Labor Relations Act, as amended" (JA2). The other charge alleged that Local 295 or its agents violated Section 8(b)(4)(B) by "engaging in, or inducing or encouraging any individual employee [sic] by any person engaged in commerce or in an industry affecting commerce to engage in, a strike or a refusal in the course of his employment to use, process, transport or otherwise handle or work on any goods, articles, materials, or commodities or to perform any services, and...[by] threatening, coercing or restraining persons engaged in commerce or in an industry affecting commerce where in either case an object thereof is to force or require Emery Air Freight Corp. and others to cease using, handling, transporting or otherwise dealing in the products of Containair Systems Corporation" (JA3).

That same day, Local 295 filed a representation petition seeking to be certified as the exclusive bargaining representative of Containair's production and maintenance employees and drivers (Case No. 29-RC-2581) (JA1).

On March 6, 1974, after completing an extensive investigation, Regional Director Samuel M. Kaynard issued a consolidated complaint against Local 295, which detailed the following conduct of the Union and its agents in violation of Sections 8(b)(1)(A) and 8(b)(4)(i) and (ii)(B):

"10. On or about February 22, and March 1, 1974, and at various other dates presently unknown during the period from February 22, to March 1, 1974, Respondent, by its agents and pickets, Eddie Lunsford, George Billups and Lonnie Gentry, and by other persons acting in its behalf, threatened various employees and supervisors of Containair to inflict bodily injury and other harm to their persons, and threatened to inflict damage to their property with an object to induce the said employees of Containair to support and assist Respondent, and not to cross the picket line established by Respondent at Containair's plant as described above in paragraph 9.

"11. On or about February 25 and 26, 1974, and on other dates presently unknown in February and March, 1974, Respondent, in furtherance of its dispute with Containair, as described above in paragraph 8, above by Mickey Hunt, its Business Agent, encouraged and induced, ordered, requested, urged, instructed and directed its members employed by Emery at the JFK facility not to work on or otherwise handle freight or material received from Containair.

"12. In furtherance of Respondent's dispute with Containair, as described above in paragraph 8, Respondent's members employed by Emery at the JFK facility, pursuant to the instructions issued to them by Respondent, as described in paragraph 11, above, from February 25 through 28, 1974 engaged in a work stoppage and a concerted refusal to work on, or otherwise handle, freight or products received from Containair.

"13. On or about February 22, and 25 through 28, 1974, and on various other dates presently unknown, Respondent, by Mickey Hunt and Jack Moran, its Business Agent and Shop Steward, respectively, and its agents, threatened, coerced and restrained Emery and other persons engaged in commerce and in industries affecting commerce by the conduct described above in paragraphs 11 and 12, and by threatening Emery with labor problems, and by threatening Emery that it would not permit its members employed by Emery at the JFK facility to work on, or otherwise handle, products received from Containair, if Emery continued to use and handle Containair's products, or if Emery continued to do business with Containair.

"14. Respondent, by the acts and conduct described in paragraphs 11 and 12 above, has engaged in, and has induced and encouraged individuals employed by Emery, and by other persons engaged in commerce or in industries affecting commerce, to engage in strikes or refusals in the course of their employment to use, manufacture, process, transport or otherwise handle or work on goods, articles, materials, or commodities, or to perform services for their respective employers.

"15. Respondent, by the acts and conduct described in paragraphs 11 through 13 above, has threatened, coerced and restrained Emery, and other persons engaged in commerce or in industries affecting commerce.

"16. Respondent engaged in the conduct described above in paragraphs 11 through 15, in furtherance of its dispute with Containair, as described above in paragraph 8, and with an object to force and require Emery and other persons to cease using, selling, handling, transporting, and otherwise dealing in the products of Containair and to cease doing business with Containair."
(JA4, 9-11).

Regional Director Kaynard also issued a Notice scheduling a hearing in the matter for April 10, 1974 (JA4).

C. The Improvident Settlement

On March 7, 1974, one day after issuing his broad sweeping complaint against Local 295, Regional Director Kaynard offered the Union a Settlement Stipulation with a "non-admission" clause stating that "the signing of this stipulation by the Respondent does not constitute an admission that it has violated the Act" (JA25, 29). The Stipulation also provided for cessation of certain specified unlawful conduct, entry of a consent order by the Board and a consent judgment by any appropriate United States Court of Appeals and waiver by any party to the Stipulation of "the filing of answer, hearing, Administrative Law Judges' Decisions, the filing of exceptions and briefs, oral argument before the Board, the making of findings of fact or conclusions of law by the Board, and all further and other proceedings to which the parties may be entitled under the Act or the Board's Rules and Regulations" (JA27-29).

Obviously seizing the opportunity to avoid any culpability for the coercive and violent acts committed at Containair and Emery Air Freight, Local 295 signed the Settlement Stipulation on March 12, 1974 (JA30).

By letter dated March 18, 1974, Containair's counsel stated the Company's total opposition to any settlement that did not require Local 295 to admit its guilt. This opposition was grounded on Local 295's marked proclivities toward unlawful conduct and the vital need of Containair's employees to receive

from official sources a truthful picture of the Union's unlawful conduct in this case and the extent to which that conduct hurt them, since Local 295 had filed a petition to represent them. Containair also objected to the failure of the Stipulation and attached Notice to specify, by tracking the language from paragraph 10 of the consolidated complaint, exactly how and why Local 295 and some Containair employees, by name, violated the Section 7 rights of the Company's other employees. Furthermore, Containair's counsel pointed out that an evidentiary hearing was necessary solely with regard to the Section 8(b)(1)(A) aspects in order to (1) discover the full scope of Local 295's violative activities, (2) establish the guilt of the three Containair employees the consolidated complaint named as engaging in unlawful acts of gross misconduct, (3) determine the identity of the "other persons acting in [Local 295's] behalf" who committed the same unlawful acts as those employees and (4) determine the identity of the individuals responsible for certain incidents of serious misconduct that were not set forth in the consolidated complaint but were detailed in affidavits to the Regional Office (JA15-20).

On March 22, 1974, Regional Director Kaynard informed Containair's counsel by letter that "the Region is still of the opinion that the inclusion of a non-admission clause in the Stipulation is proper because it in no way affects the efficiency of the Board Order or Court decree which would be sought in this case, or any other outstanding orders or decrees against

Local 295, I.B.T." Mr. Kaynard stated that the Region did not believe a hearing on the merits is required and that the Region would modify the Stipulation and Notice only to the limited extent of adding some more specific language regarding the Section 8(b)(1)(A) violations alleged in the consolidated complaint. As to these modifications, Mr. Kaynard stated that Local 295 had given its consent (JA21-22).

On April 1, 1974, Containair's counsel sent Regional Director Kaynard a letter opposing the modified Stipulation for the same reasons spelled out in the March 18 letter, except to the limited extent the modified Stipulation met Containair's prior objections. In addition, counsel urged the Regional Director to schedule an evidentiary hearing to discover the extent and scope of Local 295's 8(b)(1)(A) and 8(b)(4)(B) activities (JA23-24).

On April 4, 1974, Regional Director Kaynard issued an order cancelling the hearing on the consolidated complaint scheduled for April 10, 1974 (JA1).

The Office of the General Counsel approved the modified Stipulation on April 30, 1974 (JA30) and on May 2, 1974, Peter G. Nash, the General Counsel of the Board, advised Containair's counsel that he had submitted the Stipulation to the Board with the recommendation that the Board approve it and issue the appropriate order (JA32).

By letter to the Board dated May 9, 1974, Containair's counsel affirmed the Company's objections to the modified Stipulation on the grounds set forth in the letters of March 18 and April 1, 1974, and requested a hearing on those objections (JA33).

On July 16, 1974, a Board panel issued a Decision dismissing Containair's objections and request for a hearing on those objections and approving the terms of the Stipulation, which it incorporated in its accompanying Order (JA34-39). The panel found that approval of the Stipulation "will effectuate the policies of the Act" since they believed that "the Stipulation fully remedies the allegations of the complaint, providing as it does for the entry of a formal Board Order and a consent Court Judgment," (JA36, fn1). Referring specifically to the non-admission clause, the panel merely stated:

"Concerning the nonadmissions provision, the General Counsel and the Regional Director advised the Charging Party that the provision did not affect the efficiency of the Board Order or Court Judgment, and thus represented no impediment to enforcement thereof." (JA35, fn 1).

The Board panel, like the General Counsel and the Regional Director, did not address itself to the public interest considerations Containair raised for denying Local 295 the non-admission clause -- the Union's shameful public record of contemptuous disdain for employers' and employees' statutory rights and the organizational context within which the Union's violent and extortionary tactics occurred.

Additional facts appear in the Argument.

A R G U M E N T

THE BOARD ACTED ARBITRARILY, CAPRICIOUSLY AND AGAINST THE PUBLIC INTEREST BY APPROVING THE SETTLEMENT STIPULATION GRANTING A NON-ADMISSION CLAUSE TO LOCAL 295, A NOTORIOUS VIOLATOR OF EMPLOYERS' AND EMPLOYEES' RIGHTS UNDER THE ACT

Section 10(c) of the National Labor Relations Act, as amended, empowers the Labor Board to redress unfair labor practices by "an order requiring such person [committing the unfair labor practice] to cease and desist from such unfair labor practice, and to take such affirmative action...as will effectuate the policies of this Act...." The power of the Board to command affirmative action "is to be exercised in aid of the Board's authority to restrain violations and as a means of removing or avoiding the consequences of violation where those consequences are of a kind to thwart the purposes of the Act." Consolidated Edison Co. v. NLRB, 305 U.S. 197, 236, 3 LRRM 646, 655 (1938).

Moreover, since "[t]he Board asserts a public right vested in it as a public body, charged in the public interest with the duty of preventing unfair labor practices", the Board has an overriding obligation to accept only those settlements which fully protect, enforce and vindicate the public rights and interest, National Licorice Co. v. NLRB, 309 U.S. 350, 364, 6 LRRM 674, 681-682 (1940); Phelps Dodge Corp. v. NLRB, 313 U.S. 177, 192-193, 8 LRRM 439, 445 (1940); Amalgamated Utility Workers

Co. v. Consolidated Edison Co., 309 U.S. 261, 6 LRRM 669 (1940);
Note, The Charging Party Before the NLRB: A Private Right in the
Public Interest, 32 U. Chi. L. Rev. 786, 799, n. 74 (1965).

In the instant case, the Board's approving the settlement without Local 295's admission of wrongdoing fails to safeguard the public interest. The Board's basic error is that it myopically views the Union's violent and destructive strike and secondary boycott as a violation of the Act that may be remedied without considering Local 295's disgraceful public record of similar violations and without considering the organizational context in which the Union's violations took place.

The Board ignored the fact that Local 295 did not launch its violent attack against Containair's employees, Containair's supervisors and Containair itself in a vacuum. The Union threatened Containair's employees and supervisors with bodily harm, blocked the entrances to and exits from Containair's plant, slashed tires, cut gas lines and air hoses, pulled down the gate enclosing Containair's tractor trailers and threw rocks at Containair's employees in a deliberate and wanton attempt to force the employees to join and support the Union as part of its organizational campaign. In addition, the Union threatened and coerced Emery Air Freight, other companies that deal with Containair and employees of those companies in order to force them to cease using, handling, transporting or otherwise

dealing with Containair's products and thereby intensify the pressure on Containair to accede to the Union's recognitional demands. If the Union is not compelled to admit that it violated the Act by the reign of terror its organizational picketing was designed to and did engender, then the employees whose rights the Union violated will be denied the truth as to whether the Union can threaten them with impunity. Such truth may be brought to light for these employees only if Local 295 admits its guilt, or is found guilty after a trial. The employees must have such truth before they vote in an election on whether or not they want this Union to represent them, if the effect on them of the Union's violent organizational activities is to be remedied in a meaningful fashion.

The Board also ignored the highly significant fact that Local 295 is no ordinary violator of the Act. Local 295 has long displayed a penchant for engaging in, to the detriment of employers, employees and even sister unions, the same violent and coercive tactics it employed at Containair. In 1967, the New York State Investigation Commission ("SIC") uncovered an "insidious arrangement" between Local 295 and a gangster-dominated trucking association to wrest control of the air-freight business at Kennedy International Airport by putting the "squeeze" on labor, trucking companies and the airlines. On March 18, 1970, the New York Daily News in the

third part of a series "detailing rampant crime and criminal influence at Kennedy Airport" focused on Local 295 and the SIC investigation:

"[Myles L. Lane, the Commission chairman] said that associates of Johnny Dio and Anthony (Tony Ducks) Corallo, another Mafia hood, most recently involved in the Marcus scandal, had moved 'into key positions' in both the union [Local 295] and truckers' association at Kennedy.

"The truck-owners' group at that time was the Metropolitan Import Truckmen's Association, an influential figure in which was Another (Hickey) DiLorenzo, a younger member of the national crime syndicate. He was on the association's pad as a \$25,000-a-year 'consultant'.

"From this position, he was able to exercise great influence in the association and to put other hoodlums and questionable characters on the association payroll,' Lane said.

"It became quite evident that the Teamsters Union Local 295 under [Harry] Davidoff and the Metropolitan Import Truckmen's Association under DiLorenzo were working together as a hammer and anvil between which both management and labor were being hammered and squeezed.'

"This 'insidious arrangement', Lane went on, put Kennedy's air-freight industry 'under virtual control of the ex-convicts and racketeers' who ruled the local and association alike.

"As a result, the SIC head charged, one trucking company was subjected 'to illegal boycotts' by Local 295 and a number of its trucks were sabotaged 'in a manner endangering the lives of the drivers and the public.'

"Because of threats, boycotts and work stoppages, this company lost lucrative shipping contracts with two major airlines. Here Davidoff had virtually dictated the selection of truckers by major airlines.'

The article continued as follows:

"Another trucking executive cited 'innumerable' acts of sabotage suffered by his company's trucks. On just one occasion, tires were slashed on 18 vehicles and the windshields broken. These wanton acts were 'part of a pattern to impose control at the airport,' Lane said.

"According to a one-truck little businessman, Local 295 lifted his union book, after which 295 members boycotted him and he couldn't make pickups or deliveries at Kennedy. Lane called it 'another example of an obvious squeeze to force a trucker into the association.'

"Still another company testified in effect, that a \$5,000 initiation fee and \$1,000 monthly dues had to be paid to MITA 'to facilitate its airport operations.'

"And there was startling evidence, Lane pointed out, that one of the nation's largest trucking companies had been driven into bankruptcy 'as a result of racketeer influence and control.'" N.Y. Daily News, March 18, 1970 at 3, col. 4-5 and at 60, col. 1. (A copy of the entire series is appended at the end of the brief).

An examination of Labor Board and court cases involving Local 295 within the last three years plainly reveals that the Union's proclivities toward unlawful conduct have not changed. Thus, in Teamsters, Local 295, (Emery Air Freight Corp.), 197 NLRB 26, 80 LRRM 1284 (1972), enforced, 82 LRRM 3091 (2nd Cir. 1973), the Union, in violation of Section 8(b)(3), insisted that Emery Air Freight sign a collective bargaining agreement that contained terms and conditions different from those on which the parties had agreed and struck Emery in support of its contract demand. See Emery Air Freight Corp. v. Teamsters Local 295, 449 F.2d 586, 78 LRRM 2466 (2nd Cir. 1971), cert. denied, 405 U.S. 1066, 79 LRRM 3092 (1972), on remand 356 F. Supp. 974, 82 LRRM 2138 (E.D.N.Y. 1972), which involved preliminary injunction and contempt proceedings arising out of Local 295's strike.

In NLRB v. Teamsters, Local 295 (Calderon Air Transport), Docket No. 33079 (1973), this Court adjudged Local 295 in civil contempt for violating a judgment entered against the Union on December 31, 1968. The Court ordered the Union, its officers and agents to purge themselves by, among other things,

"A. Henceforth conducting themselves in all respects consistant with the said judgment of December 31, 1968; and they shall not in any way, by action or inaction, commit, engage in, induce, encourage, permit or condone any violation of the said judgment; specifically they shall not (1) picket or station pickets at or in the vicinity of the premises of Trans-Air Freight System, Inc., or at or in the vicinity of the premises of any other person engaged in commerce or in an industry affecting commerce, doing business with Calderon Air Transport, Inc.; or (2) in any manner or by any means threaten, coerce or restrain Trans-Air Freight System, Inc., Trans-Air Import, Inc., Schenkers International Forwarders Inc., Alltransport Warehousing and Packing Corp., or any other person engaged in commerce or in an industry affecting commerce; or (3) induce or encourage any individual employed by any person engaged in commerce or in an industry affecting commerce to engage in a strike or a refusal in the course of his employment to use, manufacture, process, transport or otherwise handle or work on any goods, articles, materials or commodities or to perform any services for any person engaged in commerce or in an industry affecting commerce,

"Where an object of such picketing or the other aforesaid acts and conduct is to force or require these persons or any other person to cease doing business with Calderon Air Transport, Inc. or where an object thereof is to force or require Calderon Air Transport, Inc. to recognize or bargain with Local 295 unless and until Local 295 has been certified as the representative of Calderon Air Transport's employees under the provisions of Section 9 of the National Labor Relations Act."

However, the Court entered the contempt adjudication pursuant to a stipulation between the Board and Local 295 that contained the following provision:

"This stipulation and order hereto annexed shall be effective only as between the parties hereto and only in a proceeding in which or to which the

Board or the General Counsel is a party, and shall not be deemed as an admission constituting evidence in any proceeding to which the Board or General Counsel is not a party."

In Teamsters, Local 295 (Jet Air Freight, Copeland Shipping, Inc., Copeland Importing Services, Inc., and Cas Trucking Corp.), NLRB Case Nos. 29-CB-1624-1, 29-CB-1624-2 and 29-CB-1624-3 (1974), the Board adopted the finding of Administrative Law Judge Leonard M. Wagman that Local 295 restrained and coerced certain clerical employees of four affiliated companies in violation of Section 8(b)(1)(A) by gaining recognition over those employees through pressure of picketing and of the threat of a strike and by entering into a collective bargaining agreement for those employees containing a union shop clause and a dues checkoff provision, all at a time when a real question concerning representation of those employees existed.

In three other cases, moreover, the Board issued complaints against Local 295, but, as in the case at bar, later settled them by a stipulation according the Union a non-admission clause. Teamsters, Local 295 (R.M.&W. of Broadway, Inc. and Teamsters, Local 917), NLRB Case Nos. 29-CP-227 and 29-CP-230 (1973) (Local 295 engaged in picketing in an attempt to force and require R.M.&W. and an affiliated company to recognize and bargain with the Union for certain of their employees and to force those employees to accept and select Local 295 as

their collective bargaining agent at a time when R.M.&W. was lawfully recognizing Local 917 for those employees and thus a question concerning their representation could not then appropriately be raised); Teamsters Local 295 (Teamsters, Local 917), NLRB Case No. 29-CB-1554 (1973) (Local 295 entered into and maintained a collective bargaining agreement with R.M.&W. of Broadway at a time when the Union did not represent an uncoerced majority of employees covered by the agreement and R.M.&W. was obligated to recognize and bargain with Local 917 as the collective bargaining agent of those employees. Moreover, pursuant to the terms of the labor agreement, Local 295 exacted and coerced covered employees to pay monies to it as a condition of employment); Teamsters, Local 295 (Air Line Freight, Inc.), NLRB Case No. 29-CC-387 (1974) (Local 295 engaged in a secondary boycott against Air Line Freight because Air Line Freight was not a party to a collective bargaining agreement with the Union and because Air Line Freight's drivers and drivers' helpers were members of or represented by Teamsters, Local 470 and not Local 295).

In the last case, the Board issued the following broad, restrictive order requiring Local 295 to cease and desist from:

(a) "In any manner or by any means, including strikes, work stoppages, picketing, threats, orders, directions, instructions, requests or appeals, however given, made or imparted, or by any like or related acts or conduct, or by permitting any such to remain in existence or effect, engaging in, or inducing or encouraging any individual employed by Profit

By Air, Inc., Air Express International Corporation a/k/a Wings & Wheels, Emery Air Freight Corp., WTC Air Freight Inc., Airborne Freight Corporation, or by any other person engaged in commerce or in an industry affecting commerce, to engage in a strike, work stoppage, or a refusal in the course of his employment to use, transport, or otherwise handle or work on any goods, articles, materials or commodities or to perform any services, or in any manner or by any means, threatening, coercing or restraining Profit By Air, Inc., Air Express International Corporation a/k/a Wings & Wheels, Emery Air Freight Corp., WTC Air Freight Inc., Airborne Freight Corporation, or any other person engaged in commerce or in an industry affecting commerce, where in either case an object thereof is to force or require Profit By Air, Inc., Air Express International Corporation a/k/a Wings & Wheels, Emery Air Freight Corp., WTC Air Freight Inc., Airborne Freight Corporation, or any other person, to cease doing business with Airline Freight Inc., or any other person." (emphasis added)

This is noteworthy since the Board issues such broad remedial orders only when "a proclivity to violate the Act is established, either by the facts within a particular case, or by prior Board decisions against the respondent at bar based upon similar unlawful conduct in the past." Teamsters, Local 70 (C & T Trucking Co.), 191 NLRB 11, 77 LRRM 1336, 1337 (1971). See NLRB v. Operating Engineers, Local 138 (Cafasso Lathing & Plastering, Inc.), 377 F.2d 528, 530, 65 LRRM 2215 (2nd Cir. 1967) and cases cited therein; NLRB v. Operating Engineers, Local 571 (Layne-Western Co.), 317 F.2d 638, 644, 53 LRRM 2294, 2297-2298 (8th Cir. 1963); Teamsters, Local 901 (Associated Federal Hotels), 193 NLRB 591, 598-599, 78 LRRM 1377, 1378-1379 (1971); Glass Workers, Local 1892 (Frank J. Rooney, Inc.), 141 NLRB 106, 107, 52 LRRM 1282, 1284

(1963). But even more important, about a month after the Board issued that broad, restrictive cease and desist order Local 295 engaged in the very same secondary boycott tactics that order proscribed, this time accompanied by threats to employees and property damage at Containair.

All of the foregoing leaves no doubt that by permitting Local 295 to escape formally admitting that it is guilty of the unfair labor practices the consolidated complaint alleges, the settlement not only fails to protect the public interest; it operates in a real sense so as to be counter-productive and actually rewards this persistent wrongdoer during the critical period in which the Union is attempting to organize Containair's plant.

Local 295 has had its chance, not once but six times in the past three years alone, voluntarily to comply with Board and court orders. Broad orders, like those in Air Freight and this case, obviously mean nothing to it. The Union violates them at will. Special measures are therefore necessary to deter Local 295 from its persistent course of unlawful conduct and thus to safeguard the public interest. We submit that the way to make Local 295 abide by the law is to require it to confess its obvious guilt or undergo a hearing determining its guilt.

The Board itself has recognized the need to go beyond standard cease and desist orders to provide more effective remedies

in circumstances where, as here, there is a pattern of continuing violations. J.J. Hagerty, Inc., 139 NLRB 633, 51 LRPM 1349 (1962), enforced in part sub. nom. Local 138, Operating Engineers v. NLRE, 321 F.2d 130, 53 LRRM 2754 (2nd Cir. 1963); J.P. Stevens & Co., 183 NLRB 25, 75 LRRM 1407 (1970), enforced, 461 F.2d 490, 80 LRRM 2609 (4th Cir. 1972); J.P. Stevens & Co., 190 NLRB 751, 77 LRRM 1333 (1971), remanded sub. nom. Textile Workers Union v. NLRB, 475 F.2d 973, 82 LRRM 2471 (D.C. Cir. 1973) (per curiam).

J.J. Hagerty, Inc., supra, involved a union that persisted in running a discriminatory hiring hall. Because of the union's history of continuing violations of the Act and the apparent ineffectiveness of the Board's prior remedial orders, the Board ordered the union to take the unusual steps of (i) setting up a non-discriminatory hiring and referral system in conjunction with and under the supervision of the Board's Regional Director and (ii) maintaining permanent records subject to his inspection for one year. In explaining the need for the special remedial measures, the Board said:

"Since the issuance of our decision in the original Nassau case, supra, Local 138 of the Operating Engineers has been repeatedly a respondent in this forum. Despite past Board orders and enforcement decrees of the Second Circuit Court of Appeals, this Union and its officers, since 1957 and continuing intermittently until the date of the hearing herein, have, inter alia, operated a discriminatory hiring and referral system and have discriminated in job referrals against these same individuals in the reform group.

"The Board's past remedial orders have apparently proved ineffective, and in view of the repeated and similar nature of the violations, we deem it necessary and proper to invoke special remedial measures to obtain a twofold objective, i.e., to insure that the Respondent Union operates a nondiscriminatory hiring and referral system, and that the individuals herein are not discriminated against in the future." 139 NLRB at 638

On review, this Court sustained the recordkeeping requirements in view of the union's pattern of persistent discrimination in the operation of its hiring hall but refused to enforce the other unusual directive since, in its opinion, representatives of the Board should not be injected into the procedures by which a hiring and referral system is set up.

A comparison of Local 295's flagrant violations of the Act, and of Board and court orders designed to insure compliance with them, with the circumstances of the cases just cited and discussed reveals with crystal clarity that the Board itself has recognized that Local 295's conduct is of a type necessitating the imposition of extraordinary remedies to vindicate the public interest. Yet the Board cavalierly ignored its own precedents, without any articulated justification, when it authorized unilateral settlement of the complaint in this case without an admission of guilt by Local 295. Under these circumstances the Court must set aside the Board's order under review and remand to the Board either to settle this case only with inclusion of an admission clause or to distinguish its own precedents and

articulate, complete and adequate reasons fully supporting the conclusion that such a clause need not be included. See Textile Workers Union v. NLRB (J.P. Stevens & Co.), 475 F.2d 973, 82 LRRM 2471 (D.C. Cir. 1973) (per curiam); NLRB v. General Stencils, Inc., 438 F.2d 894, 905, 76 LRRM 2288, 2296 (2nd Cir. 1971), where Judge Friendly said, "While the Board has wide discretion in framing remedies, the agency has a correlative duty to explain its imposition of a remedy in one case and its failure to do so in a seemingly similar - or even stronger - one on a basis reviewing courts can understand"; IUE v. NLRB (Tiidee Prods., Inc.), 426 F.2d 1243, 73 LRRM 2870 (D.C. Cir.), cert. denied, 400 U.S. 950 (1970); Textile Workers Union v. NLRB (Roselle Shoe Corp.), 294 F.2d 738, 48 LRRM 2718 (D.C. Cir. 1961).

In Textile Workers Union v. NLRB (J.P. Stevens Co.), supra, the Court of Appeals for the District of Columbia Circuit remanded an order against J.P. Stevens & Co. for further consideration because the Board did not fully and adequately explain why the company's long history of unfair labor practices did not justify the broader relief the Textile Workers had requested. In so holding the court said:

"The package of remedies chosen by the Board in this case may be entirely appropriate, or at least within the rather wide limits of its discretion. There is no question that the Board has the power to take J.P. Stevens' history of recalcitrance into account in designing its order. Indeed, it has an obligation to do so. See N.L.R.B. v. J. H. Rutter-Rex Mfg. Co., 396 U.S. 258, 90

S. Ct. 417, 24 L. Ed. 2d 405 (1969); International Union of Electrical Workers v. NLRB, 426 F.2d 1243 (1970).

"But the Board's reasons for its choice of remedies in this case are at least incomplete, and potentially inconsistent. This is no minor problem. It forces us to choose between a de novo selection of an appropriate set of remedies and an uncritical acceptance of the Board's choice. Neither of these approaches would comport with the command of the National Labor Relations Act. Although the courts will not lightly interfere with Board orders, the Board is under a complementary obligation to set forth in rational fashion the relationship between the case and the remedy it orders.

"The Board failed to explain why J.P. Stevens' history of unfair labor practices does not warrant the broader relief that the Union has requested. It chose instead to explain a case that was not before it: one in which a history of many years of obstinance was lacking. Accordingly, the petition for review is granted, and the case is remanded to the Board for further proceedings not inconsistent with this opinion." 475 F.2d at 976, 82 LRRM at 2473.

The Board's failure to articulate reasons for granting Local 295 a non-admission clause over Containair's strenuous objections likewise justifies denying enforcement to the Board's order in this case.

CONCLUSION

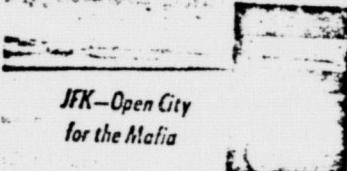
For the foregoing reasons, this Court ought to grant the Company's petition to review and set aside the order of the National Labor Relations Board and deny the Board's petition for enforcement of its order.

Respectfully submitted,

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The following report on the activities of organized crime at John F. Kennedy Airport in Queens is the first of a series compiled by a team of News investigative reporters consisting of Gerald Kessler, Kermit Jaediker and Henry Lee.

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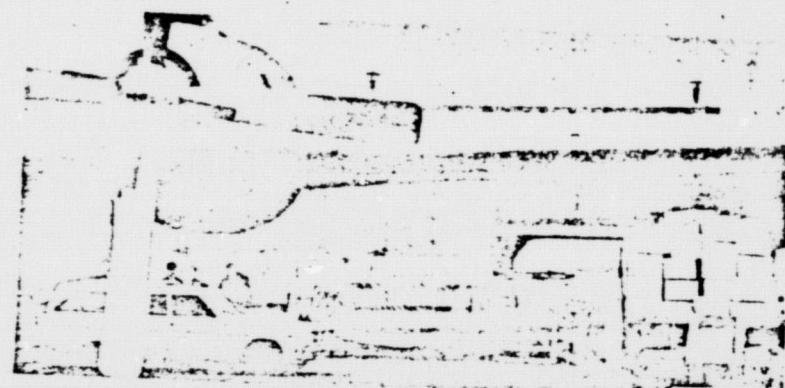
HARRY DAVIDOFF is 53, a short man with a big voice. He has brown hair and brown eyes and a fair complexion and wears glasses and looks like an accountant. He lives in a brick split-level in Roslyn, L.I., and has two cars, a Jaguar convertible and a Cadillac. Friend wife uses the Jag. Davidoff drives to work in the Caddy.

He is secretary-treasurer of a Teamsters Union local whose members drive air freight trucks in and out of John F. Kennedy International Airport, and his salary runs around \$15,000 a year. His union is one of several unions at the airport, but it is THE union. One snap of Davidoff's fingers and the biggest air cargo terminal in the world would shut down tight.

That's a lot of power for one man, especially a man of his record. Law enforcement intelligence men say Davidoff is Johnny Dio's man at the airport. That could be an exaggeration, but this is for sure—Davidoff and Johnny Dio have had a long and close association. And Johnny Dio is Mafia.

At 49, John (Sonny) Franzese is a self-made multimillionaire. He is big, hulking, bull-necked, moody, short-tempered. He lives half a dozen blocks from Davidoff, on plush Shrub Hollow Road in Roslyn Heights. He lives in continual terror of being ambushed and when he moved into his new home, he

The Mob carves \$7 million a year out of Kennedy



Air cargo waiting to be loaded on planes at Kennedy Airport is protected from the elements by a plastic sheet, but is left virtually without protection from any would-be thieves in the area.

wouldn't allow a shrub to be planted because shrubs can hide gunmen.

However, with all the fancy landscaping in the neighborhood, his wife complained long and hard for greenery and finally Sonny relented and \$1,000 worth of it was planted. But Sonny never passes those shrubs, night or day, without giving them a thought.

Sonny's business is highly diversified. Among other things, according to official records, he reportedly runs a black man of which cargo at Kennedy Airport is a prime target. Even more importantly, he is said to be the Mafia's chief armorer. This is not

to imply that the Mafia manufactures its guns. Many, including the high-powered Luger, reportedly come from crates surreptitiously opened at JFK.

In all, the Mafia has 30 topflight agents working in and around the great sprawling airport at the southeast corner of Queens and above these agents, above Franzese, above Dio himself, is Carlo Gambino, boss of bosses of the national crime syndicate. He doesn't look the part. He's a short, thin, frail, gray-haired man of 70, wears cheap clothes and looks like

(Continued on page 40)



Capt. Joseph O'Hare (left), president, and Willard Quirk, secretary-treasurer of union, announce rejection of offer.

Tugmen Reject Pact Offer & 6-Week Strike Goes On

By MICHAEL HANRAHAN

Defiantly shouting "not enough money," nearly 4,000 striking tugboat workers yesterday rejected an offer of a 30% increase in wages over the next three years.

The action continues the walkout, which has curtailed regular harbor traffic throughout the Port of New York for six weeks.

The strike, which began on Feb. 1, has resulted in huge increased operating expenses to a number of local industries because of the high cost of trucking materials and products overland in place of the relatively lower cost barge shipments.

Capt. Joseph O'Hare, president of the 6,000-member National Maritime Union, Local 121, said after the rejection, that he expected the strike to last "several more weeks."

The proposed contract, which had been presented to the membership without any comment by the union leadership, also provided an additional 4% contribution.

The men, who operate 400 tugs

and barges receive an average of \$17 to \$64 for a 24-hour period under the present contract. However, the tug men get a week off — without pay — for every week they work.

What Men Asked

The union originally demanded a 100% increase in wages, to offset the non-pay periods.

The rejection of the offer from the Marine Towing and Transportation Employees Association came at a stormy membership meeting held at noon yesterday in the union's hiring hall at Seventh Ave. and W. 12th St.

Many of the union members spoke out against ratification of the offer during the meeting.

Ernie Orland, a 30-year-old

mate for the Great Lakes Towing Co., called upon the membership to hold out for more money, because the strike would now have a greater economic impact on the tug operators because of the warming weather.

Orland stressed that there would be additional business lost from construction outfits which usually need supply shipments to keep pace with building contracts.

"In addition," said Orland, "the Erie Barge Canal, which represents third of the local towing business, is now ready to reopen after the spring thaw."

The strike has also caused inconvenience to incoming passengers and cargo ships, which have been forced to dock unanchored.

Pupil Records Called A Threat to Privacy

The record-keeping practices of most public schools "constitute a serious threat to individual privacy," according to a report released yesterday by the Russell Sage Foundation.

The report, resulting from a conference of 20 experts on the ethical and legal aspects of school record keeping, noted that schools often collect information about current status, health data, pupils or parents without their consent and make this data available to outsiders.

"Virtually all school systems maintain extensive pupil records,"

(Continued on page 12, col. 3)

Townhouse Yields Bits of Bodies

By DANIEL O'GRADY

Bits and pieces of bodies were recovered yesterday from the bombed ruins of a once-lovely Greenwich Village townhouse, but authorities believe they were parts of torsos already found, rather than a new victim.

The fragments—some appearing to be part of a head—were turned over to Associate Medical Examiner Elliott Gross, who was conducting an autopsy on a male torso discovered Saturday at the reputed "bomb factory" at 18 W. 11th St.

Only one of the three who died in the dynamite explosions of

March 8 has been identified. Theodore Gold, 23, member of the revolutionary West German faction of the Students for a Democratic Society and a leader in the 1968 Columbia revolt.

There have been persistent reports that a young woman's torso was that of Pat Swinney, 22,

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Annex B - A Soft Land for the Moon

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Top Mobster at JFK:**'I'm All for a Cleanup'**

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Harry Davidoff is a labor statesman who does things in style. His union headquarters at 179-30 119th Ave., Jamaica, Queens, is a handsome, severely-modern building of expensive gray stone which is expensively furnished inside. There's even a sauna where the bespectacled, 53-year-old Davidoff can sweat out the cares of high office.

And why shouldn't he wheel-deal in style? Local 295, International Brotherhood of Teamsters, dominates the air freight industry at the world's biggest air cargo terminal, John F. Kennedy International Airport, and Davidoff, as the \$15,000-a-year secretary-treasurer, is the boss of the operation.

Owner of an expensive sports-level car in Roslyn, L.I., and garage space to accommodate both a Cadillac and a Jaguar, Davidoff has come a long, prosperous way from his bullet-garnished salaried days in Brooklyn's tough Brownsville district.

Then he was known as "Little Gangie," distinguishing him from brother William, who was "Big Gangie."

This union statesman who to a large degree guides the destinies of Kennedy's air freight industry has a record dating back to 1938

in which are convictions for burglary, conspiracy to extort and gambling, plus arrests for felonious assault with a knife, gun possession, grand larceny, robbery and extortion.

According to the State Investigation Commission, he was linked early in his criminal career with Murder Inc., the fearsome Brooklyn thugs of the late 1930s.

In 1957, when the U.S. Senate rackets committee dug into the enormous labor racketeering scandal, Harry Davidoff was la-

bored as secretary-treasurer of Teamsters Local 275, described by the committee as a "paper" local bought up by John (Johnny) Dio D'Urso, the Mafia's leading authority on labor rackets.

The Senate committee charged that Davidoff had negotiated "sweetheart contracts," allowing no benefits to the helpless workers, and had shaken down employers for protection against legitimate unions. Davidoff tearfully took the Fifth Amendment 14 times when questioned by the committee.

A decade later, when the State Investigation Commission took a crack at him, he had progressed to the "paper" local to Local 295, whose 1,500 truck drivers practically control the passage of air freight at Kennedy.

"I'm not ready to give no testi-

Third in a series detailing rampant crime and criminal influences at Kennedy Airport, by Joseph Martin, Edward Kirkman, Gerald Kessler, Kermit Jaschinski and Henry Lee.

mony," he firmly told SIC. "I'm not represented by an attorney and I can't answer no questions."

However, from less implicated witnesses, SIC discovered "a weak and potentially dangerous situation," according to commission chairman Myron L. Lane.

He said that associates of Johnny Dio and Anthony (Tommy) DiCarlo, another Mafia local most recently involved in the Marcus sealant, had moved "into key positions" in both the union and truckers' association at Kennedy.

The truck-owners' group at that

time was the Metropolitan Im-

port Truckmen's Association, an influential figure in which was

Anthony (Hickey) DiFioro, a

youngster member of the national

crime syndicate. He was on the

association's pad as a \$25,000-a-

year "consultant."

From this position, he was

able to exercise great influence

(Continued on page 60)



Harry Davidoff
Why shouldn't he wheel-deal?



Union members show identification before Manhattan Center vote.

Identity Girl Victim of Blast

By PATRICK DOYLE and RICHARD HENRY

The young woman whose body was found with two male corpses in the Greenwich Village townhouse bomb factory was identified last night as Diana Oughton, 28, a Bryn Mawr graduate who had become "very active" in the militant Weatherman faction of Students for a Democratic Society.

Identification was made through a match-up of FBI finger print records with the print that police laboratory technicians were able to lift from a finger found yesterday in the rubble of the townhouse, which blew up March 6.

The torso of the girl was found on March 10. The body of Theodore Gold, 33, a leader of Students for a Democratic Society during its riots at Columbia in 1968, was found the day of the blasts; the body of another male, unidentified, was found Saturday.

The Oldest of 4 Girls

Diana was the oldest of four daughters of James H. Oughton, a restaurateur in the home town of Dwight, 100 miles southwest of Chicago. Her brothers, both 56, did not know that their daughter was dead until evening when Mrs. Jane Jane Oughton told *The New York Times*.

"I first saw her on Christmas here in Dwight. I last heard from her on her 28th birthday, Jan. 20th. She was calling from Chicago. She was a very popular girl in college, where she majored in German, but since graduating

in 1964, she had become very active in the SDS. She was in the Weatherman group. I found out when she was arrested in Illinois."

Her Arrest Record

That arrest occurred last Oct. 9, when Diana was seized on a "minor action" charge along with other militants, radicals in the Four Days of Rage that the SDS mounted to protest the 1968 Chicago police action against leftist protesters.

Diana also was arrested Sept. 22, 1969, in Flint, Mich., where she had recently taken up residence, paired with her, as she

distributed organizing literature for the militant at Flint Central HS, wrote John Finkington, 26, and David Joseph Chase, 21.

Flint police said last night that they thought one of those two youths might be the unidentified person found dead in the ruins of 15 W. 11th St.

Her Upheaving

Diana was evicted from Flint, Mich., on Thanksgiving Day in 1969. Subsequently, she traveled widely in Europe, according to Deputy Inspector Thomas F. H. McGuire of the First Detective Bureau.

(Continued on page 21, col. 1)

School Vote Tomorrow

Polls will be open at more than 4,000 polling places for tomorrow's community school board elections in Brooklyn, Bronx and Richmond. Voters may cast their ballots between 6 a.m. and 2 p.m.

As a general rule participants registered voters will vote in their regular polling places, while specially registered vot-

ers will vote in or near the schools if they attend.

Tomorrow will be the opening regular session during the day, but principals may exercise alternate days to accommodate the elections. All after school and evening sessions are off, except, however,

for voting, which is not af-

fected by the election, and has regular school hours for the entire day.

that service would not be completely curtailed.

Following the vote tabulation, it began, around 4 p.m. and read the tally from the Honest Ballot Association favoring the YES—STRIKE vote.

Johnson then told the members that strike headquarters would be at Branch 56 offices in the Times Square Motor Hotel, 43d St. and Lexington Ave.

He then read the strike manifesto: "No return to work until restoration of a contract providing wages of \$150 to \$155,000, with cost of living increases."

The demands included:

- Two-year wage increases at time of re-employment at age of 50.
- Full pension contributions by the government.
- Full health care premiums paid by the government.

- Full life insurance premiums paid by the government.
- Job security and that the demand to end for a 100-day period of strike is presently set at the rates of men relative to 1970.

Later earnings are presently fixed at 100 to a top of \$3,412 after 21 years.

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JFK—OPEN CITY FOR THE MAFIA

Here's Harry, it's his airport

(Continued from page 3)

In the association and to put other hoodlums and questionable characters on the association payroll," Lane said.

"It became quite evident that the Teamsters Union Local 205 and Harry Davidoff and the Metropolitan Import Truckmen's Association under DiLorenzo were working together as a hammer and anvil between which both management and labor were being hammered and squeezed."

This "insidious arrangement," Lane went on, put Kennedy's air freight industry "under virtual control of the ex-converts and racketeers" who ruled the local and association alike.

As a result, the SIC head charged, one trucking company was subjected "to illegal boycotts" by Local 205 and a number of its trucks were sabotaged "in a manner endangering the lives of the drivers and the public."

"Because of threats, boycotts and work stoppages, this company lost lucrative shipping contracts with two major airlines. Here Davidoff had virtually dictated the selection of truckers by major airlines."

Another trucking executive cited "innumerable" acts of sabotage suffered by his company's trucks. On just one occasion, tires were slashed on 18 vehicles and the windshield broken. These wanton acts were "part of a pattern to impose control at the airport," Lane said.

According to a one-truck little businessman, Local 205 lifted his union book, after which 205 members boycotted him and he couldn't make pickups or deliveries at Kennedy. Lane called it "another example of an obvious squeeze to force a trucker into the association."

STILL ANOTHER company testified, in effect, that \$5,000 initiation fee and \$1,000 monthly dues had to be paid to MITA "to facilitate its airport operations."

And there was startling evidence, Lane pointed out, that one of the nation's largest trucking companies had been driven into bankruptcy "as a result of racketeer influence and control."

Moreover, as documented by a bit of social chit-chat, the friendship between Dio and Davidoff exposed in 1957 by the Senate rackets committee was still warmly flourishing a decade later.

Johnnie Dio and Mrs. D. were among those attending a surprise birthday party tossed for Harry Davidoff at Lenny's Steak House in Long Beach, L.I., in October, 1957. Other guests included union and MITA representatives and persons active in air freight, attesting to the high esteem with which Davidoff was regarded in the industry.

Today, as the elder labor statesman at Kennedy, Davidoff is pained by uncouth reminders of his gamy past.

"I don't deny that I have a record," he said the other day. "But I'm talking about 25, 30 years ago. You understand, this is what they're talking about. If I was a kid then and I got in trouble, do you want to brand me now?"

"I'm a sitting duck." He last arrest—"I think"—was in 1942 and asked if he hadn't once been shot, he said, "I was shot." Then he recalled, "March 30 years ago."

"Why don't you guys talk to the workers?" he asked. "Do you know where all the stealing is coming from? From the airlines, from some airline workers who belong to other unions. All the stealing comes from the airlines."

Davidoff explained that drivers and freight handlers never know what's in a cargo carton.

"The only one who would know is the employee of the airline that have the manifests come in on the teletype, you understand? They don't tell you where all the stealing comes from."

So, according to Davidoff, it's "the people who work for the airlines, the cargo handlers who work for the airlines, those are the people stealing the freight—and claiming it on these drivers."

With pardonable pride, he noted that his drivers are the biggest paid in the International, making \$300 to \$400 weekly and vowed:

"I say this to you, if they show me one Mafia truck driver here, I'll put him out of business or a truck owner, whoever he is."

So far as the cruel things said about him and Local 205 by the SIC in Roslyn, he retorted:

"Every agency had our books and records. If they had anything on this union, they'd be in here with their hand cuffs tomorrow morning. We're just a scapegoat. We were in front of every grand jury there is and everything."

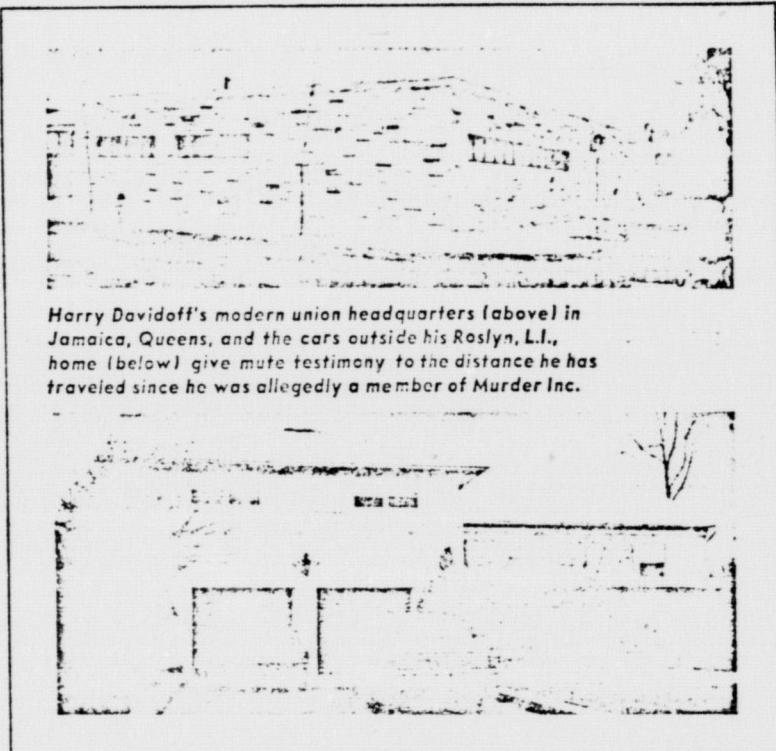
Davidoff says he took the Fifth under questioning "because I didn't even know what they're talking about. Can I give you a question when they ask, 'Were you here and this is the day that day?' I don't even know do you mean yesterday?"

What do you think was the SIC's motivation in breaking you and 205 as mobster-dominated?"

"I'd say somebody's looking for a high political job in the airport," he answered.

"Do you want to know something? You gotta go in back of the airport, in back of each cargo terminal of every airline and see the freight wings right there, right out in the open where anybody can come in and take it. They don't even have no security there."

In his sweeping critique of airport security, he



Harry Davidoff's modern union headquarters (above) in Jamaica, Queens, and the cars outside his Roslyn, L.I., home (below) give mute testimony to the distance he has traveled since he was allegedly a member of Murder Inc.

also mentioned Building 80, the Customs Building, where Brokers are located.

"You have to go and see some employees that they hire there," he said in scandalized tones.

"With beards and all the rest of it. You're afraid to walk in the halls there; people tell me."

As previously pointed out in this series, the Customs Building contains the critically important information on movement of important cargoes that could help in pulling off large thefts or major hijackings. The kind of crime that exists because Kennedy is an "Open City" to the Mafia.

Personally, Davidoff insisted, he is "a million per cent" in favor of full security, and his union would "spend a million per cent" in carrying out such measures.

"I don't want this union to be branded," he said. "If a man is a thief, he doesn't belong here. These men are making \$600, \$700 a week, and if they're thieves, they don't belong here."

A NEWS reporter asked Davidoff about a movement, gathering momentum, to have the Waterfront Commission take over the security responsibility, and this surprising dialogue ensued:

THAT'S NOTHING wrong with it," Davidoff asserted. "Listen, I don't know how they're going to stop it. Down at the waterfront, there's more stealing than in the airport. I am not opposed to anything to stop the stealing."

"I'm not going to be opposed to the Waterfront Commission coming in."

"I'm not opposed to anything as long as they stop the stealing."

"The reason I ask the question is that one of the measures would obviously interfere—I'm referring to the Waterfront Commission—would be the fingerprinting of employees."

"There's nothing wrong in it, there's nothing wrong in it."

"You're not opposed to it?"

"Of fingerprinting?"

"No, sir. If they ask me that is what they want, I will recommend it and enforce it. Because when I send a worker out to work, I ask, 'You got a record?' Listen, I'm not a cop. The worker tells me, 'No.'

"What the hell! I don't know whether he has or not and the company that checks on him—like the insurance companies—they are very lax. They should check these people if they have a record or was ever locked up for stealing or anything, and that's it."

Over a 10-year period, he asserted, only "about 15 or 20" members were given the keys to from the union for thefts or other criminal acts. And his membership represents some 60 to 70 trucking firms and air freight forwarders with about 500 trucks.

On the management side of the street, Haskell Wolf, an attorney, represents the National Association for Air Freight, successor agency to MITA, which was exposed in the SIC hearings.

To U.S. Attorney General John Mitchell's recent charge that gangster domination still exists at Kennedy, Wolf answered: "That's an outright lie, you see, that has to be refuted. And that's what I'd like you to do, to give you the story. You can have a look at the books, the records, anything you like. I have nothing to hide here."

Wolf, who is NAAF's executive director, asserted that he had made recommendations several years ago to the Airport Security Council that the airlines themselves improve their precautionary measures. The council was organized in August, 1958, by the airlines to advise them on measures for tighter and better security.

"Any schmuck can come into an airline and say, 'I'm looking for a job' and they'll put him on. They weren't needed bodies to move cargo around. They weren't paying any attention to what they were doing."

"Now the point is time—if you will check the records with the police and the FBI, everybody they have apprehended in the last four or five years, with this theory going on, you will find that 80 to 90 percent of the people were airline personnel."

Wolf had some counter-charges of his own to toss onto the landing strip, including "political motivation."

Besides, he complained, there's an outfit called ACTI, Air Cargo Inc., which is a wholly owned corporation of the 12 domestic airlines in the country. Wolf said that ACTI arranges contracts between local truckmen and carriage agents for different airlines in different cities.

According to Wolf, ACTI collects by merely acting as an intermediate in billings from the truckmen to the airlines. This, in effect, he maintained, is a relate from the truckmen.

In Washington, a high official with ACTI convincingly refuted the statement. He asked that his name not be used. Why?

"Please don't," he said. "I wouldn't want somebody to come down here and rap my children."

"You're not serious about this?"

"I'm very serious about it."

And, from independent sources, THE NEWS learned that a threat had been made to the family of another high ACTI official who had volunteered to assist in an informal probe into claims at JFK.

Meanwhile, back at the grey stone union depot on 149th Ave. in Jamaica, Harry Davidoff deplored talk at his sauna bath. Why, he explained, any one of the members, any member at all, can come in any time and sit down after a long day of virtuous toil.

Next: Security at JFK.

NET: Other crime of Kennedy

SOCIAL SECURITY

By HARVEY GARDNER

C.P.A.

QUESTION: I will be 65 soon but never worked. My husband is seven years younger and is therefore not yet eligible for benefits. Can I get hospital coverage at age 65?

ANSWER: As you are not entitled to benefits on either your own or your husband's record, you are not eligible for free hospital insurance. A woman who reaches 65 in 1970 needs nine quarters of coverage for hospital insurance. However, there is nothing to prevent you from applying for medical insurance at a cost of \$4 monthly (\$48.00 effective July 1970).

QUESTION: Will retire at age 65 in 1970 after having earned the maximum. What amount will I get? C.P.

ANSWER: Including the new 15% increase, a male will receive \$1,040 monthly. A female draws \$1,064.40.

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Crime Experts Sum Up JFK:

Albany Bill Won't Stop the Mobs

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DESPITE THE SHOCKING extent of airport crime—as spotlighted by THE NEWS expose of rackets at Kennedy Airport, ranging from cargo thievery to loan sharking and smuggling—remedial legislation proposed in Albany would be like prescribing aspirin for a cancer, experts maintained yesterday.

Original plans to have the Waterfront Commission, with its 17 years of crime-fighting expertise, take over total security responsibility for the airport have been watered down, these experts say, that the program would not only be ineffectual—it would be unenforceable.

Two years ago, with the backing of Gov. Rockefeller, a tough bill that would have given such powers to the commission was allowed to die on airline pleas that they could do the job themselves.

In those two years, while the airline slumbered, crime at JFK has more than doubled as the Mafia and independent criminal elements moved into the "open city." The phrase, in gangland, means that almost any one can grab a piece of the action in the lush, lush \$2.5 billion-a-year cargo industry there.

Though the bill now submitted by State Senator John Hughes (R-Syracuse) ostensibly gives the Waterfront Commission responsibility for JFK's security, THE NEWS uncovered a loophole as big as a garter. The measure excludes all airline employees, concentrating only on the truckers.

Thus, experts warned yesterday, "zones of immunity" would be created in the territory of the airlines, where law breakers could count their noses at the commission cops. Hughes himself told THE NEWS that this measure was a "half loaf."

Further, both New Jersey and New York must adopt identical legislation measures involving the Waterfront Commission, a Bi-State agency or no measure at all will result.

In contrast to the aspirin-like Hughes bill, a bill



Austin Tobin
Head of Port Authority



Sen. Frank McDermott
Author of strong N.J. bill



Paul Curran
Chairman of S.I.C.

Last in a series detailing rampant crime and criminal influences at Kennedy Airport, by Joseph Martin, Edward Kirkman, Gerald Kessler, Kermit Jaecher and Henry Lee.

has been introduced in the New Jersey Legislature, a measure that would apply surgery to the crime cancer. It is exactly the same tough bill drafted for New York two years ago, but snuffed out by airline pressure.

Sen. Frank McDermott, a sponsor, predicts support in the Jersey Legislature for his bill, but even if it passes, the effect would be nullified by passage of the Hughes bill here. So far as is known, there have been no efforts by New York legislators to get together with their New Jersey counterparts and adopt

the necessary identical language for both measures. Investigation by THE NEWS disclosed that a few weeks ago the Waterfront Commission forwarded to Sen. Hughes a proposed bill that paralleled the above measure of two years ago. Subsequently, as the commission's surprise, Hughes sent back his bill's weakened version, exempting airline personnel.

The measure according to Albany sources, was so completely unacceptable that the commission, in turn, sent back word to Hughes that it would never, under any circumstances, become associated with such a security program.

None the less, Hughes has continued to expose his little orphan, and only in the past week has met with airline representatives to discuss the bill.

As recently as Wednesday, he also met with Rob-

(Continued on page 54)



Pickets on Herkimer St., Brooklyn, protest school board elections.

OK Ronan's E. Side Loop For Second Ave. Subway

By ALFRED MIELE and RICHARD OLIVER

The Board of Estimate approved yesterday the Metropolitan Transportation Authority's suggested route for the proposed Second Ave. subway line, including a "loop-handle" loop to serve Manhattan's lower East Side.

Approval, by an 11-4 vote, came after a four-hour City Hall hearing and a two-hour, closed-door session by the board.

Connects at Houston

The new line will run south from 36th St. along Second Ave. to a terminus at Water and Broome Sts. in lower Manhattan. The loop

route will connect with this line at E. Houston St., run east to Avenue C, and then north to connect with the existing 14th St.-Canarsie line of the BMT.

City and state agencies previously approved the Second Ave. line from 14th to 125th Sts.

At yesterday's hearing, resi-

dents and civic groups from the lower East Side asked the board to expand the loop further down town and to increase the line from two to four tracks.

Better Service

Chairman William J. Ronan of the transportation authority told the board that his plan would provide "more and better service" than a plan to route the line as suggested by the board last July.

Ronan said the new route would cost an estimated \$160 million compared with \$191 million for the other plan, which would have shifted the Second Ave. line east at 10th St. to Avenue A, then back again just below Canal St.

Ronan said his plan would also place an additional 13,000 families within seven blocks of the subway. Passengers will also be able to transfer to the Brooklyn Seventh and Eighth Ave. lines, in addition to the 14th St. line.

Queens Modifications

In a related action, the board unanimously approved transportation authority modifications of \$1.8 million worth of previously approved subway routes for Queens. These changes involve extensions of service for western Queens residents through a connection between the downtown BMT line and the new, westward Queens line, which will terminate in Springfield Gardens.

Plans call for these lines in Queens and the new line in Manhattan to be completed in 18 years.

4 Boroughs Pick District School Boards

By BERT SHANAS

A "light turnout" was reported yesterday as voters in all boroughs except Manhattan cast their ballots in the first general election for decentralized local school boards.

The voting began at 4 a.m. at 4,200 polling places, but for the most part the only persons present in the first hour were elections officials, a Board of Education spokesman reported.

At the YM-YWHA of Greater Flushing at Kissena Blvd. and Geranium Ave., a polling place in School District 25, Queens, for example, only five voters had showed up by 7:15 a.m. And there were 45 candidates for the nine positions on the local school board.

Many Go to Wrong Polls

Throughout the city there were many cases of voters reporting to wrong polling places. This was attributed partly to the postal strike, since the voters' letters had been mailed by the post office where they were to vote. Many of the cards were not delivered because of the mail strike.

Only a few incidents were reported at the polls.

Two of them were in the Ocean

Dope Claims Another

The medical examiner's office listed one death yesterday from a stroke of heroin. The victim was Luis Almada, 32, of 132-12 110th St., Jamaica, Queens, who was found at 130 Park Ave. It brought the total of dope-related deaths to 184 so far this year.

Hill Brownsville section of Brooklyn, where the election is supervised by the governing board of the demonstration school district that was eliminated in the decentralization plan.

At PS 155 in the district, an interpreter tried to assist Spanish-speaking voters was accused of advising parents not to vote

in the election. The interpreter was told by Board of Elections officials that she faced arrest if she continued giving such advice. Two bilingual cops were posted to audit her conversations.

Earlier, Assemblyman Samuel Wright (D-Brooklyn), who heads an unopposed state uniformly for the governing board, protested when Luis Fuentes, principal of PS 155, allowed voters to enter the school by only one door that permitted pupils to enter by three doors.

Some Wrong Ballots

Assistant Superintendent of Schools Harold Hay told Fuentes if he did not let voters enter by all doors he would "face trouble with the Board of Elections and possible arrest." Fuentes then opened all the doors to voters.

At some schools, paper ballots

were received for the wrong candidates and at others election materials and supplies arrived in boxes so big that they could not be carried up the stairs.

From 250,000 to 300,000 voters were expected to cast ballots in the 25 local school districts before the polls closed at 9 p.m. After closing, ballots will be taken to the nearest police station, then to a counting center in each local district.

Counting of votes was scheduled to begin at 3 a.m. today, but the results of the elections in some districts were not expected to become final until Sunday or later.

The locally elected boards will replace the appointed boards now operating, and will have much greater authority over the operation of elementary and junior high schools in their districts.

Elections in Manhattan were postponed until a legal challenge to a local district line drawn up by the Board of Education is cleared up.

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Airlines found lax in security

(Continued from page 5)

ert Thomas, the airlines' Albany representative, and Edward McLaughlin, counsel to Hughes' crime investigating committee and also to the State Investigation Commission.

Similarly, SIC conferred this past week as THE NEWS series was starting with representatives of the airlines. Chairman Paul Curran refused to comment on the reason for his meeting.

Three years ago, revelations by SIC of the increasing racket infiltration at JFK inspired the tough Bill of 1968. And ever since that measure was signed, Austin J. Tobin, executive director of the Port Authority, has personally appealed to the top brass of the airlines to beef up their security.

The PA formally submitted two dozen recommendations to the lines, which had been drafted by their own security experts, the city police and the insurance companies. A follow-up was made by the Airport Security Council, set up by the airlines to handle their security problems.

It is the "recollection" of Mario Noto, ASC executive director, that all 24 recommendations were carried out "to some fashion or some degree" by the lines, but he told THE NEWS:

"When I ask them if they are doing the things suggested by law enforcement agencies, they tell me they are doing it. But I can't vouch for it."

Yesterday, Tobin observed:

"As THE NEWS has shown in its current series, the problem now requires governmental action on the broadest possible front."

Crime has been spurring at such an alarming rate that some major importers and importers are considering a drastic shift. Unless security at JFK is completely overhauled, they told a Congressional investigating committee, they plan to remove to Montreal as their port of entry.

And the reek of Mafia-inspired crime can be smelled as far away as Cleveland and Atlanta. Businesses "raiders" from those cities are trying to persuade air commerce to overtly rechristen JFK as a center and make their communities ports of entry. Chicago and Boston, which already are ports, are similarly seeking to lure business from New York. Though not immediate, there is a clear danger that, if crime at JFK runs unchecked, the city will become an import-export ghost town.

Even the Hughes bill, now tucked away in the Committee on Judiciary, charges that:

• The air freight trucking industry at JFK and much smaller LaGuardia Field is controlled in large part by persons who are members of or associated with organized crime and by persons notoriously lacking in moral character.

• As a result, "there has been a rash of theft and pilfering of air freight running into the millions of dollars each year and other criminal activities such as assault, labor sabotage, loan-sharking and extortion."

• As a further result, "organized crime has a virtual stranglehold on the air freight business at the affected airports."

Thereupon, Sen. Hughes suggests these remedial steps:

• Requiring the licensing of all freight forwarders, contract carriers, truckers, drayage agents and warehousemen for two-year periods.

• Barring any applicants with criminal records, although exceptions could be made for those proving good conduct the last five years before application.

• Demanding that complete records be kept under pain of license revocation.

However, the measure fails to control all operations at the field, which is considered vital for total security. The bill applies only to the trailers and does not establish security areas within the airport or ban unlicensed individuals from the cargo terminal area.

"In the airport complex, if you throw the criminals off one side of the street," one security expert explained, "they'd merely go over to the other side where the Waterfront Commission had no jurisdiction. They could thumb their noses at the commission while committing a crime."

Hughes told THE NEWS earlier this week that the bill "should be all-inclusive. But a half loaf is better than none, you know." He added: "If we could get the bill we have, it might be a starting point—but I think eventually it ought to go beyond that."

"The thing out there (crime at JFK) is growing by leaps and bounds and the less scrutiny there is, the more it's going to be. I don't suppose anybody really knows how much is being stolen."

Hughes said that during the two years he's been there, the airlines have shown that proper security "is away ahead of them. I don't think they've got what is needed. They made a big stink and said, 'We can handle it ourselves.' He recalls, "We gave them the time."

"They had 40, 50—and we're in 70 now."

Statistics show that crime at JFK has continued to increase.



STATE OF NEW YORK

8750

IN SENATE

February 26, 1970

AN ACT

To amend the waterfront commission act, in relation to placing

LaGuardia airport and John F. Kennedy International airport under the jurisdiction of the commission.

Character, that as a result of such control by the aforementioned

persons there has been a rash of theft and pilfering of air freight

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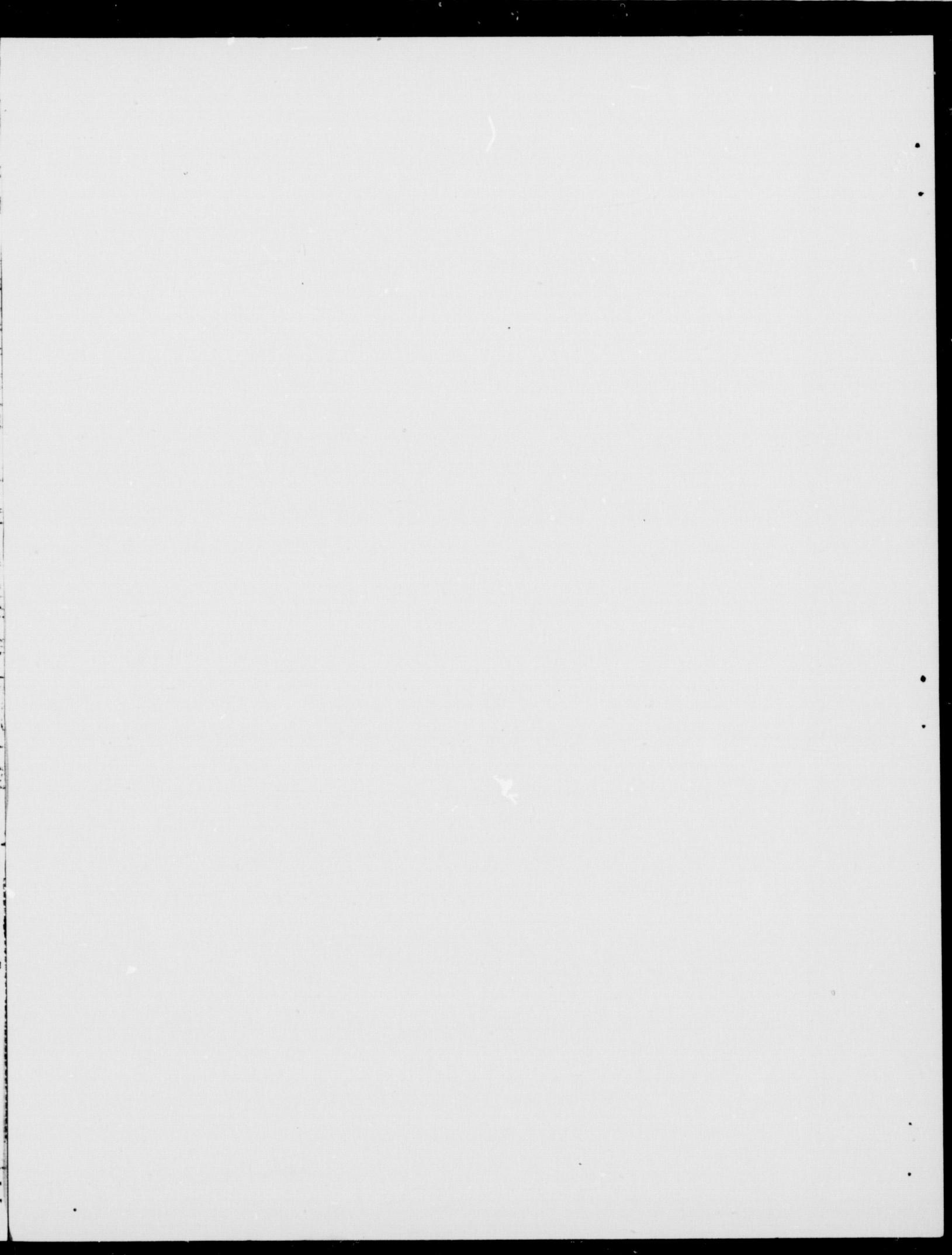
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UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

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CONTAINAIR SYSTEMS CORPORATION,	:	<u>AFFIDAVIT</u>
Petitioner,	:	
- against -	:	Docket Nos. 74-2098
NATIONAL LABOR RELATIONS BOARD,	:	and 74-2132
Respondent.	:	

-----X

STATE OF NEW YORK)
: SS.:
COUNTY OF NEW YORK)

DONNA GIGLIO, being duly sworn, deposes and says,
that she is over the age of 18 years, that she resides at
64-33 Cooper Avenue, Glendale, New York, New York 11227, and
that she is not a party to the above-entitled proceeding.

That on the 20th day of December, 1974, she served
the annexed Petitioner's Brief, on the attorneys hereinafter
named by depositing two true copies to each contained in
securely sealed, post paid wrappers, properly addressed to
the said attorneys as follows:

PETER G. NASH
General Counsel
National Labor Relations Board
Washington, D. C. 20570

DAVID KRAMER, ESQ.
Friedlander, Gaines, Cohen,
Rosenthal & Rosenberg
Counsel for Local 295
1140 Avenue of the Americas
New York, New York 10036

in the letter box regularly maintained and exclusively
controlled by the United States Government at No. 350 Park
Avenue, Borough of Manhattan, New York, New York 10022.

Anna Vogler
Sworn to before me this
20th day of December, 1974.

Joseph Warren

JOSEPH WARREN
Notary Public, State of New York
No. 01-0539130
Suffolk County
Commission Expires March 30, 1977